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APR 12 2007

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In re Application of:
KWOK et al.
Application No. 10/079,741
Filed: February 19, 2002
For: RETRIEVING HANDWRITTEN
DOCUMENTS USING MULTIPLE
DOCUMENT RECOGNIZERS AND
TECHNIQUES ALLOWING BOTH TYPED
AND HANDWRITTEN QUERIES

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition, filed 21 February 2007, under 37 CFR § 1.181 requesting the holding of abandonment be withdrawn.

The petition is **DENIED**.

This application was held abandoned for applicant's failure to file a proper amended brief in response to the Notifications of Non-Compliant Appeal Brief mailed 21 April 2006, 23 August 2006 and 16 October 2006. A Notice of holding abandonment (PTOL 413 - Interview Summary) was mailed on 20 February 2007.

In support of the petition, petitioner asserts that (1) each response to the Notification of Non-Compliant Appeal Brief, including the Three Times Corrected Appeal Brief submitted on 16 November 2006, was filed within the set time period; (2) the Three Times Corrected Appeal Brief submitted on 16 November 2006 was in compliance with 37 CFR § 41.37(c)(1)(v) and addressed all of the examiner's comments in support of the Notification of Non-Compliant Appeal Brief; and (3) 37 CFR § 41.37(c)(1)(v) does not provide any guidance nor make any requirement regarding the length of the citations as noted by the examiner during the telephone interview on 09 February 2007.

37 CFR § 41.37(d) states:

If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed. [Emphasis added.]

Pursuant to 37 CFR § 41.37(d), the appeal should have been dismissed after the first amended Brief filed 22 May 2006 had been held for non-compliance for the same reason(s) as stated in the Notification of Non-Compliant Appeal Brief mailed 21 April 2006. However, the examiner mailed out another Notification of Non-Compliant Appeal Brief on 23 August 2006 to notify applicant such a Non-Compliance Appeal Brief. Again, the second amended Brief filed 28 September 2006 failed to comply with the same requirement set forth in the two previously mailed Notifications of Non-Compliant Appeal Brief. It is well established that applicant has been given more than one opportunity to comply with the requirements as set forth in 37 CFR § 41.37(c). Further, it is pointed out that the application was in abandoned status after 19 July 2006 (this is seven months after receiving the Notice of Appeal). Thus, the appeal must be missed and the application is in a proper abandonment status. Therefore, applicant's assertion that the third amended (Three Times Corrected) Appeal Brief submitted on 16 November 2006 was in compliance with 37 CFR 41.37(c)(1)(v) and addressed all of the Examiner's comments in support of the Notification of Non-Compliant Appeal Brief is irrelevant.

For the above stated reasons, the petition is **DENIED**.

As per applicant's request, the instant petition has been forwarded to the Office of Petition to treat as a petition to revive under 37 CFR § 1.137(b).

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.



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